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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/069,871	05/22/2002	Shin-Young Bae	70606-0035	5650

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EXAMINER

HYLTON, ROBIN ANNETTE

ART UNIT PAPER NUMBER

3727

DATE MAILED: 10/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/069,871

Applicant(s)

BAE, SHIN-YOUNG

Examiner

Robin A. Hylton

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 May 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 01 August 2003 is: a) ☐ approved b) ☒ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Drawings

1. The drawings were received on August 1, 2003. These drawings are not approved by the examiner. Proposed figure 2B is a duplicate of existing figure 2. The proposed figure should be a mirror image of the existing figure as indicated from the markings on figure 1.

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the protrusions **16** and grooves **18** (of claims 2 and 6) and the identification means configured as holes (in claims 4 and 8) must be shown or the features canceled from the claims. Currently, only one protrusion and one groove are shown. The outer cap has notches or openings, not holes. No new matter should be entered.

A proposed drawing correction or corrected drawings are **required** in reply to the Office action to avoid abandonment of the application. The objection to the drawings **will not** be held in abeyance.

3. The drawings are objected to under 37 CFR 1.83(a) because they fail to show the protrusions **16** and grooves **18** as described in the specification at page 4, line 21. Currently, only one protrusion and one groove are shown. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). A proposed drawing correction or corrected drawings are **required** in reply to the Office action to avoid abandonment of the application. The objection to the drawings **will not** be held in abeyance.

Claim Rejections - 35 USC § 112

4. Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the claims are rejected for the following reasons:

Claim 1 and 5 each recites the limitation "the inner and outer circumferential surfaces of the side walls" in paragraph 3 of each claim. There is insufficient antecedent basis for this limitation in the claim.

Claim 4 recites the limitation "the display portion" in line 3. There is insufficient antecedent basis for this limitation in the claim.

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The structure of the bottle cap is not clearly set forth in the claims. When is the opening hole of claims 3 and 7 perforated? The identification means configured as holes (claims 4 and 8) are notches or openings, not holes since they are not separately formed from one another.

Dependent claims not specifically mentioned are rejected as depending from rejected base claims since they inherently contain the same deficiencies therein.

Claim Rejections - 35 USC § 102

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. Claims 1, 2, 5, and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Johnson et al. (US 5,092,477).

Inner cap **16** and outer cap **20** each have ratcheting teeth **48,90**, respectively, which are engaged to be moved unidirectionally and ratcheting protrusions **82,84** and **46**, respectively, which are engaged with each other when the second ratcheting teeth move relative to the first ratcheting teeth. The top wall of the outer cap serves as the identification means and liner **18** is the opening/closing identification means.

Claim Rejections - 35 USC § 103

7. Claims 1 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buono (US 5,370,251) in view of Forrester (US 4,500,005).

Buono teaches an inner and outer cap having ratcheting teeth **36** engaged to be moved unidirectionally. Any of spaced apart teeth can be considered ratcheting protrusions which are engaged with each other when the ratcheting teeth move relative to one another. Buono does not teach an opening/closing identification means and a corresponding identification means.

Forrester teaches it is known to provide a bottle cap with an opening/closing identification means and a corresponding identification means **40**.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of an opening/closing identification means and a corresponding identification means to

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the bottle cap of Buono. Doing so alerts the end user of possible tampering of a contained product in an associated container.

8. Claims 1,4,5, and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buono in view of Gach et al. (US 4,446,979).

Buono teaches an inner and outer cap having ratcheting teeth **36** engaged to be moved unidirectionally. Any of spaced apart teeth can be considered ratcheting protrusions which are engaged with each other when the ratcheting teeth move relative to one another. Buono does not teach an opening/closing identification means and a corresponding identification means.

Gach teaches it is known to provide a bottle cap with an opening/closing identification means and a corresponding identification means.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of an opening/closing identification means and a corresponding identification means to the bottle cap of Buono. Doing so alerts the end user of possible tampering of a contained product in an associated container.

9. Claims 1,3-5,7, and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buono in view of Shelton-Ferrell et al. (6,003,467).

Buono teaches an inner and outer cap having ratcheting teeth **36** engaged to be moved unidirectionally. Any of spaced apart teeth can be considered ratcheting protrusions which are engaged with each other when the ratcheting teeth move relative to one another. Buono does not teach an opening/closing identification means and a corresponding identification means.

Shelton-Ferrell teaches it is known to provide a bottle cap with an opening/closing identification means and a corresponding identification means. Given the broadest reasonable interpretation, the holes **26** are formed along the periphery of an (unnumbered) opening hole.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of an opening/closing identification means and a corresponding identification means to the bottle cap of Buono. Doing so alerts the end user of possible tampering of a contained product in an associated container.

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10. Claims 3 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claims 1 and 5 above, and further in view of Smalley (US 4,394,916).

Wherein it can be argued the modified closure of Buono having the holes of Shelton-Ferrell are not located along the periphery of the (unnumbered) opening hole, it would have been obvious to one having ordinary skill in the art at the time the invention was made to relocate the holes closer to the periphery of the opening hole as taught by Smalley, since it has been held that rearranging parts of an invention involves only routine skill in the art.

Conclusion

11. This Office action is made non-final in view of the new grounds of rejection under 35 USC 112, 2nd paragraph.

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Various prior art closures having features similar to that disclosed and/or claimed is cited of interest.

13. In order to reduce pendency and avoid potential delays, Group 3720 is encouraging FAXing of responses to Office Actions directly into the Group at (703) 872-9302 or (703) 872-9303 for after final amendments. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into Group 3720 will be promptly forwarded to the examiner.

14. It is called to applicant's attention that if a communication is faxed before the reply time has expired, applicant may submit the reply with a "Certificate of Facsimile" which merely asserts that the reply is being faxed on a given date. So faxed, before the period for reply has expired, the reply may be considered timely. A suggested format for a certificate follows:

I hereby certify that this correspondence for Application Serial No. _____ is being facsimiled to The U.S. Patent and Trademark Office via fax number (703) 872-____ on the date shown below:

Typed or printed name of person signing this certificate

Signature_____

Date_____

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15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robin Hylton whose telephone number is (703) 308-1208. The examiner works a flexible schedule, but can normally be reached on Monday - Friday from 9:00 a.m. to 4:00 p.m. (Eastern time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee Young, can be reached on (703) 308-2572.

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Errica Bembry at (703) 306-4005.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1148.

RAH
October 15, 2003



Robin A. Hylton
Primary Examiner
GAU 3727